

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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BILL DRAFT 2009-LR-125B [v.4] (03/01)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Local Government Broadband/Tax Credit.

(Public)

Sponsors: Representative Haire.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING LOCAL GOVERNMENTS TO PROVIDE NOTICE TO
3 BROADBAND SERVICE PROVIDERS BEFORE DEPLOYING HIGH SPEED
4 BROADBAND INTERNET SERVICE IN UNSERVED OR UNDERSERVED AREAS
5 AND PROVIDING AN INCOME TAX CREDIT FOR LAST MILE HIGH SPEED
6 BROADBAND INTERNET SERVICE DEPLOYMENTS IN UNSERVED OR
7 UNDERSERVED AREAS OF THE STATE.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** Article 15 of Chapter 153A of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 153A-281. Broadband service to unserved or underserved areas.**

12 (a) A county may acquire, lease as lessor or lessee, construct, establish, enlarge,
13 improve, extend, maintain, own, operate, and contract for the operation of public enterprises in
14 order to furnish high speed broadband internet services to the county and its citizens.

15 (b) If a county intends to provide high speed internet service to an area within the
16 county, the county shall do all of the following:

17 (1) Define an unserved or underserved geographical area within the county that
18 the county intends to service.

19 (2) Define the type of service to be provided in the defined area.

20 (3) Give written notice to any broadband service provider doing business in the
21 county of the county's intent to provide services under this Article. The
22 notice shall be given by certified mail, return receipt requested.

23 (c) Within 90 days of receipt of the county's notice of intent to provide high speed
24 broadband internet services, any broadband service provider doing business within the county
25 may respond to the notice by stating its desire to provide services to the designated area. The
26 broadband service provider must post a performance bond with the county in the amount of
27 \$50,000, which shall be returned to the broadband service provider upon its completion of the
28 high speed broadband deployment within 12 months of the date the provider's response to the
29 county's notice of intent.

30 (d) The county may proceed with its high speed broadband deployment if:

31 (1) No broadband service provider responds to the county's notice of intent
32 within the prescribed period; or

33 (2) A broadband service provider fails to complete the deployment within
34 twelve months.

SECTION 1.(b) Article 16 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A.329 Broadband service to unserved or underserved areas.

(a) A city may acquire, lease as lessor or lessee, construct, establish, enlarge, improve, extend, maintain, own, operate, and contract for the operation of public enterprises in order to furnish high speed broadband internet services to the county and its citizens.

(b) If a city intends to provide high speed internet service to an area within the city, the city shall do all of the following:

(1) Define an unserved or underserved geographical area within the city that the city intends to service.

(2) Define the type of service to be provided in the defined area.

(3) Give written notice to any broadband service provider doing business in the city of the city's intent to provide services under this Article. The notice shall be given by certified mail, return receipt requested.

(c) Within 90 days of receipt of the city's notice of intent to provide high speed broadband internet services, any broadband service provider doing business within the city may respond to the notice by stating its desire to provide services to the designated area. The broadband service provider must post a performance bond with the city in the amount of \$50,000, which shall be returned to the broadband service provider upon its completion of the high speed broadband deployment within 12 months of the date the provider's response to the city's notice of intent.

(d) The city may proceed with its high speed broadband deployment if:

(1) No broadband service provider responds to the city's notice of intent within the prescribed period; or

(2) A broadband service provider fails to complete the deployment within twelve months."

SECTION 2. Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-130.49. Credit for last mile high speed broadband internet service deployments in unserved areas.

(a) Credit. – Any corporation that completes the deployment of last mile high speed broadband internet access services in an unserved or underserved area of the State is allowed a credit against the tax imposed by this Part equal to five percent (5%) of the cost of the deployment paid during the taxable year.

(b) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payments made by or on behalf of the taxpayer. The basis in any equipment for which a credit is allowed under this section shall be reduced by the amount of credit allowable.

(c) Carryforward. – If any unused portion of a credit allowed in this section exceeds the tax imposed under this Part, the excess may be carried forward over the succeeding year, but the total credit for both years may not exceed a total of ten percent (10%).

(d) Definitions. – The following definitions apply in this section:

(1) Deployment. – Completion of the last mile of high speed broadband internet access allowing the end user to access high-quality voice, data, graphics, video, and other services developed for use over high speed broadband internet.

(2) High speed broadband internet services. – Broadband service having the capacity to transmit data to enable an end user of the service to originate and receive high-quality voice, data, graphics, video, and other services developed for use over high speed broadband internet.

1 (3) Last mile. – The physical connection between the edge of any
2 telecommunications or high speed internet service provider's network and
3 the end user's premises that permits the end user to access high speed
4 broadband internet services.

5 (4) Unserved area. – Any urban or rural area of the State in which high speed
6 broadband internet service is unavailable to the general public due to the
7 absence of a last mile deployment.

8 (e) Documentation. – Upon request, to support the credit allowed by this section, the
9 taxpayer shall file with its income tax return, for the taxable year in which the credit is claimed,
10 proof that the deployment has been completed.

11 (f) Sunset. – This section is repealed effective for taxable years beginning on or after
12 January 1, 2013."

13 **SECTION 3.** Section 1 and Section 3 of this act are effective when it becomes law. Section
14 2 of this act is effective for taxable years beginning on or after January 1, 2011, and applies to
15 costs incurred for last mile high speed broadband internet service deployments on or after that
16 date.